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CONSIDERATION OF THE HONORABLE JOHN G. TOWER TO BE SECRETARY OF DEFENSE

FEBRUARY 28, 1989.—Ordered to be printed

Mr. NUNN, from the Committee on Armed Services, submitted the following

REPORT

together with

MINORITY, SUPPLEMENTAL AND ADDITIONAL VIEWS

The Committee on Armed Services, having had under consideration the nomination of the Honorable John G. Tower to be Secretary of Defense, reports unfavorably thereon and recommends the nomination not be confirmed by the Senate.

COMMITTEE ACTION

On December 16, 1988, then President-elect Bush indicated his intent to nominate Senator Tower to be Secretary of Defense. The Senate received Senator Tower's nomination on January 20, 1989. The Committee met in executive session to discuss this nomination on January 25, and held public hearings with Senator Tower on January 25 and 26. The Committee heard testimony from three outside witnesses on Senator Tower's nomination in public session on January 31, and held a hearing in executive session with two of these outside witnesses on January 31. The Committee met in executive session with Senator Tower on January 31 and on February 1, and concluded the hearings on the nomination with a public session with Senator Tower on February 1. After a delay requested by the White House, the Committee resumed its consideration of the nomination in executive session meetings on February 22 and 23.

In a public session on February 23, the Committee voted to report the nomination unfavorably with the recommendation that the nomination not be confirmed by the Senate.

Scope of the Committee's Review of Senator Tower's Nomination

1. COMMITTEE PROCEDURE

Although the responsibility for nominations rests primarily with the President, the Senate's constitutional power of advice and consent establishes a responsibility for the Armed Services Committee to ensure that the highest standards are applied in the appointment of the persons entrusted with the national defense. During recent years, a general consensus has developed in the defense community on the need to improve the quality and experience of persons appointed to senior civilian defense positions.

In the Summer of 1988, the Committee initiated an informal examination of the standards that should be applied to civilian appointees in the Department of Defense. As part of this inquiry, the Committee sought the views of a number of outside experts, including former Secretaries of Defense Melvin Laird, James Schlesinger, and Harold Brown. On October 28—10 days before the Presidential election—Senators Nunn and Warner wrote to both Vice President Bush and Governor Dukakis to explain the qualifications standards that would guide the Committee's consideration of persons nominated by the President for civilian defense positions. Those letters were sent prior to the election principally to avoid any suggestion of partisan motivation.

The Committee also sought at the outset of the 100th Congress in January 1987 to strengthen our procedures for reviewing nominations. Steps taken by the Committee during the 100th Congress included: (1) developing and implementing written procedures for handling nominations to ensure a thorough and consistent review; (2) requiring each nominee to fill out a detailed questionnaire designed to ensure thoroughness as well as consistency in obtaining information related to the nominee's qualifications and potential conflicts of interests; (3) requiring the General Counsel of the agency concerned to submit a letter to the Chairman certifying that the nominee is in compliance with applicable conflict of interest rules; (4) obtaining a letter from the Counsel to the President describing the nature and scope of the FBI's investigation of the nominee; and (5) ensuring that the Chairman and Ranking Member, or a Member of the Committee designated by them, reviewed the summary of the FBI file on each nominee.

On November 29, 1988, the Committee held a formal meeting at which the Members considered and endorsed the standards and procedures for use in the review of nominations submitted by the incoming Administration. The meeting specifically focused attention on the role the Committee could play in encouraging the appointment of a defense management team of the highest quality, experience, and integrity by taking a rigorous but fair approach in the confirmation process.

2. PREPARATION FOR THE CONFIRMATION HEARINGS

Shortly after Senator Tower's nomination was announced on December 16, 1988, the Committee informed in writing the Counsel to the President, C. Boyden Gray—then the Transition Counsel—of

the Committee's requirements for nominees, including the need to examine in detail the background investigation by the FBI. At the same time, the Committee contacted both the Transition Office and Senator Tower to start the flow of paperwork necessary for a thorough review of all relevant documents.

a. Committee questionnaire

Senator Tower's response to the Committee's questionnaire, which was received by the Committee on January 9, 1989, provided a starting point for the Committee's inquiry into Senator Tower's qualifications and suitability for the position of Secretary of Defense. In addition to setting forth basic biographical and financial information, the questionnaire contained a number of recent speeches by Senator Tower that were discussed in the subsequent examination of his views on important national security issues.

b. Conflict of interest and background materials

The responsibility for ensuring that the nomination is in compliance with applicable laws and Executive Branch regulations governing conflicts of interest rests with the Executive Branch. The Armed Services Committee, however, has traditionally held nominees to a higher standard than that required by the conflict of interest laws, and has conducted rigorous oversight of the financial interests of nominees to senior Department of Defense positions.

As part of the confirmation process, the Committee obtained Senator Tower's financial disclosure forms for this nomination and for his service as START negotiator, as well as the financial disclosure forms available in the Senate Office of Public Records; his tax records for the last three years; copies of his campaign expenditure fund filings and certain receipts; copies of all his defense consulting contracts and related documents; filings under the Federal Regulation of Lobbying Act; additional materials submitted by Senator Tower at the Committee's request; and his military service record. The Committee has also received the letters required to be submitted by the nominee, the White House Counsel, the Office of Government Ethics, and the DOD General Counsel on conflict of interest and related matters.

c. Review of the FBI report on the background investigation of Senator Tower

Prior to submission of a nomination to the Senate, the Federal Bureau of Investigation (FBI) conducts a background investigation of the nominee for the purpose of providing the President with information about the suitability of the prospective nominee. The report of the investigation is submitted to the Counsel to the President (or in the case of a change of Administrations, to the Counsel to the Transition), who is responsible for preparing appropriate advice to the President.

The determination as to whether an individual should be nominated rests with the President. Thus, the preparation and review of the background investigation, financial disclosure statements, and other initial materials bearing on suitability rests with the Executive Branch.

The Executive Branch is responsible for the quality and effectiveness of the background investigation. Not only does the Administration control the training and assignment of the investigators, as well as the conduct and direction of the investigation, it also controls the underlying information. Under current practice, when the FBI report is provided to the Committee, it is normally given only to the Chairman and Ranking Minority Member. Moreover, the material provided to the Committee consists only of the FBI's summary of its interviews. The underlying interviews are not submitted.

The FBI considers the White House its client from the beginning through the conclusion of the background investigations. Moreover, the FBI believes that it must receive permission from the White House to proceed on any Committee request. The White House has insisted that all requests for follow-up investigations from the Committee be given to the White House. On one occasion, an attorney in the White House Counsel's office showed to the nominee an allegation provided to the Committee before it was transmitted to the FBI.

Despite these limitations, the Committee's access to the FBI report provides an important element in the constitutional system of checks and balances that is reflected in the Senate's advice and consent function. The role of the Committee with respect to the FBI report is to review the process and the information provided, determine if clarification or supplementation is needed, and apply the Committee's own standards and procedures to the material and determinations provided by the Executive Branch. The Committee also looks to ensure that the material conforms to existing rules, regulations, and laws.

On December 16, 1988, when President-elect Bush announced his intent to nominate Senator Tower, the FBI Report had not yet been completed. Instead, the President-elect was provided with a document described as a "Summary Memorandum containing the partial results of the investigation of John G. Tower." That is what is now called Chapter 1. Chapter 2 was completed on December 23, 1988; Chapter 3 was completed on January 6, 1989. It was at this point that the Transition Counsel informed the Committee that the FBI summary of the investigation was available for review.

Chapters 1, 2, and 3 were provided to Senators Nunn and Warner on January 7, 1989. Subsequently, at the request of Senators Nunn and Warner, additional information, known as Chapter 4, was added to the FBI report on January 13, 1989 and was then provided to the Committee. Chapters 5 and 6 of the FBI report were provided to the Committee on January 25 and February 8, respectively. On February 7, the Counsel to the President asked Senators Nunn and Warner to delay the Committee's vote on the nomination until new allegations that had been brought to the attention of the White House could be investigated by the FBI. On February 14, 1989, the White House agreed to make the FBI report available to all Members of the Committee and a limited number of staff. Chapter 7 of the FBI report was made available to the Committee on February 20, and Chapter 8 was made available on February 28.

Beginning with the initial review of the FBI report on January 7, the Committee worked with the FBI, the White House, and the nominee to obtain additional materials, clarify certain information, and conduct the Committee's own review. That process continued throughout the hearings and deliberations of the Committee on the nomination.

The Committee encountered difficulty in obtaining documents relevant to allegations of misconduct by Senator Tower while he served as an Ambassador at the Negotiations on Nuclear and Space Arms with the Soviet Union in Geneva. The Committee had been informed that a document in the files of the Air Force Office of Special Investigations (OSI) suggested misconduct on the part of Senator Tower. The OSI report provided to the Committee in January did not contain such a document.

The Committee then received information suggesting that the document might be in a version of the file maintained by the Office of Personnel Management (OPM). The Committee asked the Counsel to the President to determine whether such a file existed at OPM, among other agencies. The Committee was told by the White House that the report did not exist. Two weeks later, when excerpts for the memorandum about Senator Tower were quoted in the media, the request was renewed. OPM then located the document and provided it to the Committee. Two weeks later, the Committee learned that an attachment alleging misconduct on the part of Senator Tower was missing. The attachment was provided to the Committee by the House Energy and Commece Committee. OPM now asserts that it destroyed the attachment as a routine matter.

The Committee assumed that the file provided by the Air Force in January was complete. The Committee subsequently learned, however, that the file consisted of four parts, and that one of these files could not be located. When the Committee pressed its inquiry, the fourth document was located. It contained a brief summary of the investigation with no information on Senator Tower.

The Counsel to the President has assured the Committee that all relevant documents concerning Senator Tower's activities in Geneva have been provided to the Committee. In addition to reviewing the materials provided by the Executive Branch, the Committee conducted numerous interviews on this matter. The Committee concludes that there is no credible information that would support an allegation that Senator Tower was involved in improper relationships with foreign nationals that would constitute a security risk.

In the course of the Committee's consideration of the nomination, the Committee received hundreds of letters and phone calls concerning Senator Tower's nomination. To ensure that the FBI's background investigation was not burdened with useless or cumulative information, a procedure was established to screen allegations. The staff first screened all material to determine which items contained allegations of misconduct. The Committee then conducted a follow-up to determine whether there were sufficient details to indicate that the allegation raised new matter and whether further investigation was warranted.

The staff determined that over 50 of the written or verbal allegations received presented no basis for further investigation. These

materials were available for review by any Member of the Committee, but were not used as the basis for any action by the Committee. There were various other allegations which were determined to be cumulative of matters already set forth in the FBI Report. These were retained by the Committee for use in conjunction with its review of the FBI Report.

The Committee continues to receive a significant volume of mail and telephone calls on Senator Tower's nomination. At the time this report was filed, the Committee's screening process has resulted in nine charges forwarded to the White House and FBI out of the hundreds of communications received by the Committee.

3. COMMITTEE PROCEEDINGS

On January 20, 1989, President Bush formally submitted to the Senate the nomination of Senator Tower to be Secretary of Defense. The Committee met in Executive Session during the morning of January 25 to receive a briefing by Senators Nunn and Warner and to discuss procedures for acting on the nomination. The briefing covered the FBI report and conflict of interest issues.

Public hearings began on the afternoon of January 25 with testimony from Senator Tower on national security issues. Senator Tower testified again on the morning of January 26, when the discussion concentrated on his consulting relationships with defense contractors. That afternoon, the Committee received further testimony from Senator Tower on national security issues. On that day, the Chairman also announced that testimony would be received from outside witnesses on January 31, noting that all requests to testify would receive appropriate consideration.

At the hearing on January 31, the Committee received testimony from Mr. William E. Jackson, Jr., Senior Fellow and Associate Professor of the Fulbright Institute of International Relations at the University of Arkansas; Mr. William Phillips, President of the National Council for Industrial Defense; and Mr. Paul Weyrich, National Chairman of the Coalitions for America. During the afternoon of January 31, the Committee met in executive session with Mr. Jackson and Mr. Weyrich, and then met in executive session with the nominee to consider conflict of interest and background matters involving confidential and proprietary matters. The Committee met again with the nominee in executive session on the morning of February 1, and then met in open session that same morning with Senator Tower to conclude its hearings on the nomination.

On February 7, the Counsel to the President requested that the Committee delay further consideration of the nomination until the FBI completed an investigation of a new allegation that had been brought to the attention of the White House. This new allegation concerned Senator Tower and the "Ill Wind" investigation into DOD procurement practices. The Committee has been advised by the White House and the FBI that no substantiation of this allegation has been developed in the investigation. The FBI's examination of this allegation, as part of the background investigation, is available to all Senators in the Office of Senate Security. The Committee resumed its consideration of the nomination in executive

session meetings on February 22 and 23. On February 23, the Committee completed its deliberations on the nomination in a public session.

Qualifications of Senator Tower

1. ROLES OF THE SECRETARY OF DEFENSE

The Secretary of Defense is the head of, and has authority, direction, and control over, the Department of Defense. He also is the principal assistant to the President in all matters relating to the Department of Defense. In these capacities, the Secretary has four principal roles: policymaker, manager, military commander, and leader.

The Secretary of Defense has a major policymaking role. He is a statutory member of the National Security Council. The Secretary of Defense advises the President on, and manages for him, the military aspects of national security strategy and policy. He plays the lead role in formulating military strategy and policy. Given the complexity of the international security environment, the breadth of U.S. global and regional security interests, and the widely varied missions of U.S. military forces, the policymaking role of the Secretary of Defense is a formidable one, and he must be skilled in both strategic and policy planning.

The Secretary of Defense, as the head of the largest and most complex organization in the Free World, has an important managerial role. The Department of Defense's annual budget of $300 billion is equal to the total sales of the four largest U.S. industrial corporations: General Motors, Exxon, Ford Motor, and IBM. The combination of the 2-million, active-duty, military personnel and 1-million civilian personnel in the Department of Defense are greater than the workforce of the 14 largest U.S. industrial corporations. The task of managing the Department of Defense is an enormous one without parallel in American business.

The Secretary of Defense is also in the chain of command for military operations, which runs from the President to the Secretary of Defense to the unified and specified combatant commanders in the field. The President and the Secretary of Defense constitute what is termed the "National Command Authorities" for U.S. military forces and nuclear weapons.

Subject to the direction of the President, the combatant commanders perform their duties under the authority, direction, and control of the Secretary of Defense. Despite his civilian status, the Secretary's powers and authority make him a military commander. The Secretary of Defense is, in essence, the Deputy Commander-in-Chief. Just like the President, the Secretary of Defense must be prepared to carry out his military command responsibilities 24 hours of each day.

Events of the last 20 years have indicated the unpredictable nature and timing of international crises. Because the United States has global security interests and military forces forward-deployed worldwide, crises involving U.S. interests and forces could occur at any time of the day, including "off duty" hours in Washington. In fact, because the United States is separated by vast

oceans from the Eurasian landmass and Africa, crises there normally occur during "off duty" hours in Washington.

The following eight crises over the last 20 years sufficiently demonstrate the round-the-clock, military command duty of the Secretary of Defense:

—the seizure of *U.S.S. Pueblo* by North Korean forces occurred at 12:32 a.m., or shortly after midnight, Washington time, on January 23, 1968;

—the White House situation room was notified at 12:50 a.m., Washington time, on April 15, 1969 that a U.S. EC–121 aircraft had been attacked by two North Korean aircraft;

—word of the seizure by Cambodian forces of the U.S. cargo ship, *Mayaquez,* reached Washington at 5:12 a.m. on May 12, 1975;

—the Korean tree cutting incident in the Demilitarized Zone occurred at 9:45 p.m., Washington time, on August 18, 1976;

—the President was briefed on the shootdown of Korean Air Lines Flight 007 at 7:30 p.m., Washington time, on August 31, 1983;

—the bombing of the Marine barracks in Beirut occurred at 11:22 p.m., Washington time, on a Saturday night, October 23, 1983;

—the *U.S.S. Vincennes* shot down Iran Air Flight 655 at 2:55 a.m., Washington time, on a Sunday, July 3, 1988; and

—the most recent Libyan attack on U.S. naval aircraft occurred at 5:03 a.m., Washington time, on January 4, 1989.

Closely related to, but distinct from, the Secretary of Defense's roles as a manager and military commander is his role as a leader. In addition to managing and commanding, the Secretary of Defense must be able to inspire and to effectively influence the behavior of his subordinates. Effective leadership is critical in the Department of Defense. The leadership potential of the Secretary of Defense depends, in part, on the confidence and respect of his subordinates, which are largely determined, at least initially, by his reputation.

The leadership role of the Secretary of Defense also carries responsibility for setting the example for the entire U.S. military establishment. Because lives, careers, battles, if not the fate of the Nation, are at stake, we have consistently insisted on the highest standards of moral conduct and integrity for the professional military officer corps. The example that the Secretary of Defense sets will significantly influence whether these high standards are maintained.

2. COMMITTEE'S EVALUATION OF THE QUALIFICATIONS OF SENATOR TOWER

Senator Tower has a substantial understanding of national security policy and international security affairs. His 20-year service as a Member of the Senate Armed Services Committee, including 4 years as Chairman, his service as Chief U.S. Negotiator in the Strategic Arms Reduction Talks (START), and his chairmanship of the Tower Board have provided Senator Tower with a solid background on national and international security issues. His expertise was evident during the Committee's hearings, during which Senator

Tower was questioned on a wide range of national and international security policy issues.

Although Senator Tower has a number of strong qualifications for the position of Secretary of Defense, the Committee's overall assessment was unfavorable. The Committee's major concerns focused on Senator Tower's standards of personal conduct, discretion, and judgment. These concerns included: (1) excessive use of alcohol; (2) the provision of consulting services to defense contractors on the probable outcomes of ongoing, confidential, arms control negotiations shortly after serving as an arms control negotiator, which created the appearance of using public office for private gain; and (3) a number of incidents of indiscreet behavior toward women. In the aggregate, these concerns led the Committee to determine that Senator Tower's personal conduct, discretion, and judgment did not meet the demanding standards of the position of Secretary of Defense, especially in terms of his suitability to serve in the chain of command for military operations, a leadership example for the men and women in uniform and the civilian employees of the Department of Defense, and his ability to restore public confidence in the integrity of defense management.

The Committee examined a number of matters concerning Senator Tower's integrity, particularly regarding his personal conduct. Senator Tower has had a distinguished public career. Notwithstanding this fact, the record of Senator Tower's personal conduct, use of alcohol, and relationships with contractors could not be ignored. The Committee's concerns about these matters are discussed in subsequent sections of this report as well as in the Executive Annex to this report, which is filed and available for review by all Senators in the Office of Senate Security.

The Committee determined that Senator Tower's excessive use of alcohol is incompatible with the vast responsibilities of the Secretary of Defense, particularly as the second most senior member of the military chain of command. Moreover, there are examples of indiscreet conduct toward women which raise questions about Senator Tower's judgment and personal example for efforts in the Department of Defense to end discrimination toward, and sexual harassment of, women.

Senator Tower has the requisite experience and expertise for the traditional roles of the Secretary of Defense in policymaking and handling external affairs. The Committee has serious concerns, however, about Senator Tower's suitability to serve in the chain of command for military operations. The Committee believes that Senator Tower, if he were a military officer, would be precluded from serving in the most sensitive command positions. The Committee also doubts Senator Tower's ability to provide effective leadership, which will require commanding the confidence and respect of his subordinates and setting the moral standards for the entire U.S. military establishment.

Nearly all of Senator Tower's adult life has been committed to public service. Unfortunately, his service as an arms control negotiator was followed soon thereafter by establishment of a consulting service in which he provided some of the Nation's largest defense contractors with advice about the probable outcomes of ongoing, confidential, arms control negotiations and the implications of such

outcomes on future product development. Such activities reflect questionable judgment and weaken confidence in his commitment to the public interest. At this time of increasing public concerns about the integrity of defense management, particularly as it relates to the acquisition process, it is imperative that the Secretary of Defense be viewed as having the commitment, interest, and expertise to forcefully reform and manage the Department of Defense. The Committee is doubtful of Senator Tower's ability to restore public trust in defense management.

Issues Examined by the Committee

1. ALCOHOL ABUSE

The Committee examined in detail the issue of Senator Tower's use of alcohol. There are serious allegations in the FBI report based on a number of first-hand, personal observations by named individuals with no known motive to lie. These include incidents in the recent past.

There is also evidence on the other side of this question. There is the record of Senator Tower's performance as the Chief U.S. Negotiator for the START talks in Geneva and on the Tower Board. By all accounts, Senator Tower performed well in these assignments. There are also a large number of testimonials by distinguished government officials and Members of the Senate.

But the record of alcohol abuse by the nominee cannot be ignored. The Committee had to determine whether Senator Tower has shown a pattern of excessive drinking in the past; if so, whether he has acknowledged and dealt with this problem; and whether this pattern continues into the recent past or even today.

The record of the FBI Report and the Committee's own review show a clear pattern of excessive drinking and alcohol abuse by Senator Tower during the 1970's. Senator Tower and his close associates and friends have conceded that Senator Tower had a drinking problem in the 1970's. Even the Administration has acknowledged that the nominee had a pattern of excessive drinking during this period. There is substantial evidence that this pattern continued in the 1980's.

The Committee searched in vain for a point in time when the nominee himself acknowledged this problem and dealt with it decisively. The nominee made it very clear that he has never sought medicial assistance for his drinking problem. There are significant inconsistencies in what Senator Tower told the FBI in the first report read by President Bush before his announcement, what Senator Tower told the FBI in subsequent reports, his executive session testimony to the Committee, and his public statements. These inconsistencies are addressed in the Executive Annex to this report.

Concerning "alcohol abuse," Department of Defense Directive 1010.4 states very clearly that it "is incompatible with the maintenance of high standards of performance, military discipline, and readiness." Military commanders state that the selection and assignment of military personnel to sensitive positions of command or those involving responsibility for nuclear weapons are so rigor-

ously controlled that alcohol abuse would result in immediate disqualification or transfer.

For example, Department of Defense Directive 5210.42 (Nuclear Weapons Personnel Reliability Program) and implementing Service regulations provide for the screening of all personnel selected for or assigned in positions responsible for nuclear weapons. This includes personnel such as:

a. aircraft and missile crews assigned to systems that deliver nuclear weapons.

b. command and control personnel in the command or staff line who could direct the disposition and employment of nuclear weapons.

c. nuclear maintenance personnel.

d. nuclear storage and supply personnel.

e. security guards who control access to nuclear weapons facilities and systems.

f. communications security personnel who receive, maintain, and distribute authenticators and codes.

The DOD Directive sums up the Personnel Reliability Program screening and disposition policy with regard to alcohol abuse as follows:

"*Disqualifying.* Any of the following traits or conduct shall normally be considered disqualifying.

"a. Alcohol abuse."

Alcohol abuse is defined in the DOD Directive as: "Any irresponsible use of an alcoholic beverage causing misconduct or unacceptable social behavior, or impairing work performance, physical or mental health, financial responsibility, or personal relationships."

With regard to selection for, and assignment to, command positions, senior military commanders indicated there is no tolerance for alcohol abuse. Each of the military Services views these assignments as special positions in the chain of command that must be filled by individuals who are not only professionally peerless but who are in control of their faculties at all times. They further indicated that command jobs at all levels are demanding in this respect; that all who aspire to command know this; and that rotations into and out of these positions recognize the demanding nature of these jobs.

Examples of these kinds of command positions include:

a. Company Commander of an Army rifle company assigned on patrol duty in the Demilitarized Zone (DMZ) in Korea.

b. Captain of an attack or Trident submarine on patrol.

c. Wing Commander, or even a Squadron Commander, of an Air Force F-111 Tactical Fighter Wing in England.

d. Brigade Commander of the Berlin Brigade.

e. Army M-1 Tank Commander, an E-5, in the 2nd Armored Cavalry Regiment (quick reaction team) on the border in Germany.

f. Commander in Chief, Strategic Air Command (CINCSAC).

The Committee determined that Senator Tower's excessive use of alcohol would disqualify him from being assigned to many sensitive positions in the Department of Defense. The Committee determined that these disqualifying standards should be applied to the most

sensitive position in the Department of Defense, that being the position of Secretary of Defense.

The alcohol abuse issue is discussed in greater detail in the Executive Annex to this report.

2. SENATOR TOWER'S ACTIVITIES AS A DEFENSE INDUSTRY CONSULTANT

From mid-1986 until December 1988, Senator Tower provided consulting services to a number of defense and aerospace firms, including LTV Aerospace & Defense Co.; Martin-Marietta Information Systems; Rockwell International, Inc.; Textron, Inc.; British Aerospace, Inc.; Hicks & Associates; and Jeford-McManus International, Inc. Senator Tower received a total of $1,028,777 (gross receipts) from these firms during the approximately two and one-half years he provided such services.

In the 13 months prior to this employment as a defense consultant, Senator Tower served as the Chief U.S. Negotiator for the Strategic Arms Reduction Talks (START) in Geneva. Shortly after leaving those ongoing talks, he became a consultant to companies, such as Martin-Marietta, Rockwell International, and Textron that are engaged in programs that are related to or under discussions in START, including the MX missile, the Midgetman missile, the Titan II and Titan IV space boosters, the Advance Launch System, enhanced guidance and control for the Minuteman missile, research and development on advanced missiles and reentry vehicle systems, support and follow-on activities for the B–1B bomber, and systems related to the Strategic Defense Initiative (SDI).

The State Department has issued guidance governing post-employment activities, which cautions against disclosure of "inside" information, as well as classified and administratively controlled information. Former employees are advised to take care not to communicate any confidential information to subsequent employers.

Although Senator Tower's consulting clients had an enormous stake in programs which could be directly affected by the outcome of the START talks, he did not take care to avoid discussing the probable results of the talks with them. According to his testimony before the Committee, he provided advice to his clients on the "implications of INF and other arms control negotiations on . . . future product development." Senator Tower also testified that he advised his clients on the "probable outcomes" of the arms control talks.

Although Senator Tower told the Committee that his advice was based on "enlightened guesswork" and publicly available information, the rapid shift from status as a negotiator to status as a consultant—giving advice on the probable outcomes of ongoing negotiations—created the appearance of using inside information for private gain.

As a result of his involvement in START negotiations and access to the parallel INF and Space and Defensive Systems negotiations, Senator Tower possessed the most sensitive information that could be obtained on the impact of the negotiations on a contractor's "future product development." Senator Tower, as a key arms control envoy, would have been aware of U.S. negotiating strategies,

real U.S. goals, fallback positions, and potential "quid-pro-quo" tradeoff offers that were proposed and debated by the U.S. interagency process, whether or not the particular options were approved. He would thus have gained considerable insight into the likely future directions of the negotiations after his departure. This would include clear understandings regarding those U.S. START positions that were non-negotiable, and those positions from which we were or might be prepared to retreat, under some conditions.

Senator Tower's position gave him insight into the U.S. position on unresolved issues within the general START framework, including banning all mobile ICBM's, establishing "counting rules" for bombers, dealing with strategic defenses, and determining allowed numbers of non-deployed missiles. Furthermore, access to the interagency deliberations would have provided Senator Tower with insight into the views of the Office of the Secretary of Defense, Joint Chiefs of Staff, and the individual military Services on proposed budget levels for strategic systems or on new start decisions for individual weapons system proposals.

The Committee has long recognized the importance of a healthy interchange between the public and private sectors, particularly in terms of encouraging people from industry with technical and managerial skills to engage in public service. But Senator Tower's decision to provide consulting services on arms control matters so soon after serving as an arms control negotiator crossed a line with regard to the "revolving door" which is of great concern to the Committee.

Senator Tower showed poor judgment by placing himself in a situation in which there was such an obvious tension between the information he acquired as an arms control negotiator and his obligations to his consulting clients. The Committee has no evidence that Senator Tower provided his clients with classified information. In the Committee's judgment, however, this situation created the appearance of using public office for private gain and casts doubt on his ability to command public confidence in the integrity of the defense acquisition system. In his own testimony before the Committee, Senator Tower noted the importance of public confidence: ". . . if we are to maintain a strong defense establishment in this country, we must restore public confidence, not just in the Pentagon but in the national security process." Similarly, he testified: ". . . we do have to be concerned about public perceptions because I think the essence of what is required for democracy to succeed is public confidence in their institutions, popular confidence in public institutions, stated better."

Senator Tower's testimony before the Committee does not reflect a sensitivity to "revolving door" problems:

> The CHAIRMAN. "Would it be wrong to give advice, not giving the negotiating position to a client, but to give advice that really was based on that knowledge?"
>
> Senator TOWER. "Now you are getting into some intangibles here. It is a pretty grey area and it is kind of difficult to come up with a conclusive answer on that. Let me say

that I do not believe that I ever did anything or gave any advice that was improper."

* * * * *

Senator LEVIN. ". . . In your situation, do you see that there is an appearance problem, when the chief negotiator, an ambassador to START talks, then leaves those talks and advises clients who have a very heavy stake in the outcome of those talks? In that situation, without suggesting any impropriety in actuality, without suggesting in the slightest that you advised them of confidential or privileged information, just the fact that you are advising them, as you put it, on probable outcomes of those talks, do you see an appearance problem there? That is my question."

Senator TOWER. "I do not see it, Senator, because the question has not been raised until now. Nobody has ever questioned me on that before now and I have not really seen any press commentary on that. . . ."

As President Bush noted earlier this year, "government should be an opportunity for public service, not private gain." He noted as a "guiding principle" that government employees must "avoid even the appearance of what is wrong." Senator Tower possessed a wealth of "inside" information on the arms control negotiations. Because of his position, his advice to his clients on effect of the "probable outcomes" of these negotiations on their product development, was valuable to the clients. In that circumstance, he created the appearance of using public office for private gain.

The Ill Wind investigation into DOD procurement fraud—coming less than two years after the Packard Commission described the acquisition system as "fundamentally ill"—has substantially undermined public confidence in the acquisition process. The public must develop confidence that acquisition decisions are based on competent, expert decisions, rather than calculations flowing through a revolving door.

It is critical that the new Secretary of Defense act vigorously to reform the defense acquisition process, which has been plagued by allegations of illegal and unethical practices, and restore public confidence in the integrity of defense management. Senator Tower's own activities would greatly complicate efforts to accomplish these tasks. His post-START consulting employment reflected insensitivity to the appearance that he has used inside information for private gain. His activities would weaken public confidence that defense acquisition decisions will be based solely on the public interest.

3. BEHAVIOR TOWARD WOMEN

The Committee examined a number of allegations concerning the nominee's behavior toward women. The Committee's record on this issue demonstrates no finding of liaisons with female foreign nationals and, hence, no security violations that such activities would entail. Nor does the record support the allegation that the nominee exerted sexual pressure on employees and associates of the opposite

sex. There are, however, a number of examples of personal conduct which the Committee found indiscreet and which call into question Senator Tower's judgment. These examples add to the cumulative body of concern the Committee has about this nomination.

The Committee is also concerned about the personal example that the Secretary of Defense must set for efforts in the Department of Defense to end discrimination toward, and sexual harassment of, women. The U.S. Armed Forces have been asked to fully integrate women into the force, treating them equally in all ways, except for combat eligibility. Serious problems still exist, however, with the status and treatment of women in the military. In this regard, the Secretary of Defense's conduct must be beyond reproach and must meet the highest moral standards.

This issue is addressed in the FBI report, which is available for review by all Senators in the Office of Senate Security.

CONCLUSION

On February 22, 1989, the Committee on Armed Services, by a unanimous vote, approved a procedural motion relating to the preparation of the Committee's public report and its executive annex on the nomination of John Goodwin Tower to be Secretary of Defense. The Committee also agreed, by a unanimous vote, that the nomination of John Goodwin Tower to be Secretary of Defense would be reported to the Senate regardless of the outcome of the Committee vote on the nomination.

On February 23, 1989, by a vote of 9–11, the Committee on Armed Services defeated a motion to report favorably to the Senate the nomination of John Goodwin Tower to be Secretary of Defense with the recommendation that the Senate act favorably thereon. Voting in favor of the motion were Senators Warner, Thurmond, Cohen, Wilson, McCain, Wallop, Gorton, Lott, and Coats. Voting in opposition to the motion were Senators Nunn, Exon, Levin, Kennedy, Bingaman, Dixon, Glenn, Gore, Wirth, Shelby, and Byrd.

On February 23, 1989, by a vote of 11–9, the Committee on Armed Services approved a motion to report unfavorably the nomination of John Goodwin Tower to be Secretary of Defense with the recommendation that the nomination not be confirmed by the Senate. Voting in favor of the motion were Senators Nunn, Exon, Levin, Kennedy, Bingaman, Dixon, Glenn, Gore, Wirth, Shelby, and Byrd. Voting in opposition to the motion were Senators Warner, Thurmond, Cohen, Wilson, McCain, Wallop, Gorton, Lott, and Coats.

On February 28, 1989, the Committee met and approved the report to accompany the nomination of John Goodwin Tower together with minority views.

MINORITY VIEWS OF MESSRS. WARNER, THURMOND, COHEN, WILSON, McCAIN, WALLOP, GORTON, LOTT, AND COATS

We, the nine Republican Members of this Committee, with many years of combined personal knowledge and observation of and experience with the Honorable John Goodwin Tower, do hereby dissent and disassociate ourselves from the vote and recommendation of the eleven Democrat Members of the Committee that the Senate should not confirm John Tower to be Secretary of Defense. Rather, we as a group, and each of us individually, find that John Tower is highly qualified to serve as Secretary of Defense, and therefore do recommend to the Senate that it advise and consent to the President's nomination of John Tower.

We reject the recommendation of the Majority because it is apparently based upon a body of fact and allegation lacking the weight of corroboration required by Senate precedents of 200 years. Those precedents accord a President the right to select his advisors, and such precedents have been exercised in support of a President several hundred times for a Cabinet position and denied in but eight instances.

By electing to base their vote and recommendation on this unprecedented and highly controversial body of information, the Majority of the Committee has chosen to reject, as unworthy of belief, the single most credible body of evidence available to the Senate: the personal knowledge and experience of the 70 Members of the Senate today who served with John Tower in the Senate, including that of 14 Members of this Committee. To our knowledge, not a single one of those 70 Members of the Senate, whose combined period of service with John Tower exceeds 650 years, has brought to the Committee's attention personal knowledge of even a single incident calling into question John Tower's fitness to serve as Secretary of Defense. Rather, prior to the President's nomination of John Tower on January 20, 1989, 12 of those Members were asked for their opinion and gave their recommendation for John Tower to serve as Secretary of Defense. Among those giving such a favorable recommendation are 6 Democrat Members of this Committee.

Their dramatic change of position is apparently based on those Members' belief that credible evidence before the Committee raises four concerns, namely: (1) a concern that the nominee is perceived to have a conflict of interest; (2) a generalized concern about the nominee's attitude toward women; (3) a concern about the nominee has a "problem" with alcohol; and (4) a concern that the nominee would be unable effectively to perform his duties because of questions that have been raised publicly about the other three concerns, regardless of whether the evidence justifies those other concerns. In order to make clear our reasons for recommending that John Tower be confirmed, it is necessary that we set forth our

views of each of these issues, and do so under the handicap of being unable to refer publicly to facts in the Committee record, including the FBI report. It is imperative that the confidentiality of this record be maintained.

First, the nominee has no legal or actual conflict between his personal financial interests and the public interests which he would be asked to represent as Secretary of Defense. He has no remaining financial interest in any firm or entity which does any business with the Department of Defense. Without such personal interests, there can be no conflict. There is no official act that the nominee could take or fail to take that would result in his financial status being altered in any way. The nominee has severed all previous connections with firms that contract with the Department of Defense and has agreed not to acquire any interest in such firms during his tenure as Secretary of Defense. The nominee has fully complied with the law applicable to Federal officials concerning conflict of interests, specifically, the Ethics in Government Act of 1978, with all Executive Branch regulations applicable to conflict of interests, and with all previously announced standards of this Committee. In short, the nominee meets all tests previously used by this Committee in evaluating whether a nominee is qualified to serve with respect to conflict of interests. Therefore, if the Majority view is to be justified, the Majority must now be applying some new standard to this nominee.

What is this new standard that the Majority now apparently seeks to apply to this nominee and, we must presume, all other nominees to positions in the Department of Defense? Apparently, that standard, as best as can be determined from the public statements of Majority Members, is that a nominee could be found unfit to serve, even when it is clear that no legal or actual conflict exists, if a "perceived" conflict arises about a nominee's interests. We reject such a standard as unfair to this nominee and to all of those who would aspire to public service in the future.

Not only has John Tower complied with all laws, regulations, and defined standards of this Committee regarding conflicts of interest, he has taken an extra step by announcing his pledge to recuse himself from any suspension or debarment issues which may arise in the Department of Defense involving any of his previous defense contractor consulting clients. This step was taken voluntarily by the nominee to remove even the appearance that he would have a conflict of interest.

We find that John Tower has no legal or actual conflict between his private interests and the public interests he is being asked to represent. We find that John Tower has taken all actions with respect to his personal financial affairs required by law, regulation, and recognized standards of this Committee and the Senate. We cannot and will not cast our votes so as to suggest that this or any other nominee must bear the burden of removing public misperceptions.

Second, a generalized concern has been expressed about the nominee's attitude toward women. We accept the Chairman's statement that the record "does not support the allegation that the nominee exerted sexual pressure on employees or associates of the opposite sex." We also find no evidence that the nominee ever

denied an individual a fair and equal opportunity for employment or advancement based upon an individual's gender. Rather, while serving in the Senate and other public and private positions, the nominee has actively encouraged and supported the professional advancement of highly qualified female employees and associates. Furthermore, we specifically find no evidence worthy of belief that the nominee ever had any improper relationship with females while serving as a START negotiator in Geneva.

We must record our view that only a limited portion of a nominee's personal relationship with members of the opposite sex is properly subject to review and concern by this Committee in judging a nominee's fitness for office in the Department of Defense. This Committee clearly has a responsibility to ensure that a nominee for a position in the Department of Defense is not and has not been involved in any illegal or improper relationship with a member of the opposite sex which could, because of the illegality or impropriety, render the nominee subject to blackmail, pose a threat to the national security, or embarrass the United States. This Committee has closely examined this issue and has found no evidence to indicate that this nominee has ever been involved in such a situation.

Beyond the issue of work and professional relationships, which are clearly relevant to a nominee's fitness to serve as an official in the Department of Defense, we believe that a nominee's relationships with members of the opposite sex are properly treated as private and are not subject to this Committee's scrutiny.

Third, the Majority has concluded that John Tower should not be confirmed as Secretary of Defense because he has some undefined problem with alcohol use. Since the Majority has failed to define clearly the standard to which they seek to hold the nominee with respect to alcohol use during his tenure as Secretary of Defense, it is not possible for us to provide our analysis of whether the evidence concerning the nominee's use of alcohol fails to meet this moving target. Therefore, we opt to set forth clearly the standard which we believe should apply with respect to a Cabinet nominee.

We believe that this Committee, the Senate as a whole, and the American people have a right to expect and demand that the person occupying a Cabinet position will be at all times while serving in that position fully capable, mentally and physically, to carry out all responsibilities of that office, whether those responsibilities arise from law or from Presidential direction. We find no evidence, or even a corroborated allegation, that John Tower could not or would not fully meet this highest of standards during his tenure as Secretary of Defense.

John Tower has testified that he is not now nor has he ever been dependent on alcohol. We accept that testimony as truthful; we are not aware of any credible evidence to the contrary. John Tower has freely stated that, during the 1970's, he consumed substantial amounts. Likewise, we accept that testimony as truthful, as we are aware of no dispute with that position. However, at the same time we find no evidence that even during this period of time, while the nominee served in the United States Senate, he ever permitted his use of alcohol to interfere with any of the duties of that office. To the contrary, we believe the actual experiences of the Members of

the Senate who served with him and the experiences of those who worked for him during that period constitute the best evidence—uncontrovertible evidence—of the nominee's ability to maintain control over his use of alcohol during that period. To our knowledge, there has not been a single piece of evidence brought to the Committee's attention by any Member or former Member that contradicts our findings in this regard.

The nominee has also represented that, in the late 1970's, he altered his tastes for alcohol, so that his use of liquor diminished and he enjoyed primarily wine. He has testified that, even more recently, he has limited his alcohol drinking to wine with meals. Once again, we find that testimony supported by the evidence. While there is some evidence that the nominee occasionally has a drink of liquor, we find that to be of little consequence. We are again struck by the total lack of any credible evidence even suggesting that the nominee has at any time been unable or neglected to perform each and every public duty and responsibility which was entrusted to him.

During the 1980's, these public duties included those of United States Senator, Chairman of this Committee, United States Ambassador and negotiator to START, and Chairman of the President's Special Review Board on the Iran-Contra Affair. Not one iota of credible evidence even suggests that the nominee ever failed to be both physically and mentally ready and able to perform every duty then entrusted to him, regardless of the time of day or night when he was called upon to perform those duties. If the Senate seeks support of our view in this regard, we especially recommend a review of the evidence concerning Senator Tower's use of alcoholic beverages, limited as it was, while serving as arms control negotiator in Geneva. We find it especially telling that the evidence about the nominee's alcohol use while negotiating with the Soviets indicates virtually no use except at formal or delegation functions. This body of evidence, or more precisely, this lack of evidence, strengthens our conviction that John Tower is in complete control of any use of alcohol and that he fully recognizes that the requirements of a particular public office require differing standards on the use of alcohol.

The ultimate question is whether there is any evidence that the nominee could not or would not, because of alcohol use, always be fully capable, both mentally and physically, to carry out the duties and responsibilities of the Office of Secretary of Defense. We agree completely with the nominee that this position is one that requires that capability 24 hours a day, 365 days a year. We believed John Tower when he told this Committee that he would never use alcohol while Secretary of Defense in any way that might ever compromise his ability to exercise those responsibilities.

John Tower has now taken the ultimate step—he has solemnly pledged that he will consume no alcoholic beverages during his tenure as Secretary of Defense. This extraordinary act, occurring after we had already reached our conclusion that John Tower is fully qualified to serve as Secretary of Defense, should assuage any concerns of Members about the nominee's use of alcohol.

Our review of the totality of the evidence concerning the nominee's alcohol use through the years supports our firm view that

John Tower has never allowed alcohol to interfere with the performance of his duties, whatever those duties were at the time. We find no reason to believe, and cannot believe, that this dedicated public servant would suddenly permit that to occur as he assumes the duties of the most important position he has ever been asked to hold.

Finally, it seems that some Members of the Majority may justify their votes, not upon any specific evidence concerning the nominee's performance or conduct, but rather by expressing doubts about his ability to be an effective Secretary of Defense because they perceive that he has been damaged by the rumor and innuendo of recent weeks. We reject that view as unfair not only to this nominee but to the Senate and the Nation. We have known John Tower, many of us for years. He is not and will not be weakened by gossip and rumor. Furthermore, we do not and will not concede that this or any other nominee's fitness can be judged by the number of allegations that can be recorded against him during the course of a confirmation process. To base a confirmation decision on such criteria is to convert the Constitutional advise and consent power into nothing more than a popularity contest. Permitting fears about the possible effect of rumor and innuendo to become the basis for decisions on a nominee's fitness to serve amounts to an admission that this Committee, and the Senate as a whole, cannot distinguish between fact and fiction. We do not believe that to be the case. The facts show that John Tower is fully and ably qualified to serve as the Secretary of Defense—the facts are not and cannot be altered by allegation, rumor or innuendo. We choose to rely on the facts.

In summary, there is broad agreement that John Tower is highly qualified to serve as Secretary of Defense based upon his knowledge, experience, and proven public record of perfomance in many demanding assignments. His grasp of the national security issues facing the Nation is unquestioned. He is the President's choice to be his principal assistant on the role of the Department of Defense in our nation's overall national security. There is not that weight of evidence, as measured by the precedents of 200 years in the United States Senate, to vote to deny the President his steadfast choice for his Cabinet post. In fact, there is an affirmative duty for us to act in support of the President.

Therefore, we the nine Republican Members of this Committee on Armed Services, do record our disagreement with the vote of the Committee's Majority, and do recommend to the Senate that it give its consent to the President's nomination of the Honorable John Goodwin Tower to be the Secretary of Defense.

JOHN WARNER.

SUPPLEMENTAL VIEWS OF SENATOR WILSON

I disagree with the Minority report only in the expressed view that "It is imperative that the confidentiality of this record be maintained."

To the contrary, release to the public of the FBI reports and other materials jeopardizes no national security interest. Those hiding their true identity behind code names need not be identified but only if the facts are made known can the American people gain knowledge of the truth. The truth is that Senator Tower has been trashed by anonymous leaks of allegations which the reports and record reveal to be almost entirely unsubstantiated, impeached, or discredited by competent evidence.

The network evening news programs have for weeks broadcast the allegations. They have not broadcast the facts which rebut these allegations. Senator Tower stands condemned by public opinion formed by false charges and vicious rumors.

It is not fair. It is dangerous precedent to allow the hijacking and corruption of the confirmation process which has occurred in this case when Senators admit that, whether factual or fair, a perception of Senator Tower has been created that must govern the Senate's decision on confirmation.

This is not courage, or justice, because it is not truth.

Senator Tower could not be worse injured, nor the American people worse deceived, by release of the true record—the real facts. To the contrary, public release of the record offers the only real hope that the American people can learn the truth.

Otherwise, Senators voting "no" on the Tower confirmation can continue to hide behind the confidentiality of the report. They should be required to cite the specific fact or facts upon which they justify their vote. It is significant that none of those voting "no" have met this test of fact and fairness.

PETE WILSON.

SUPPLEMENTAL VIEWS TO THE MINORITY REPORT OF SENATOR JOHN McCAIN

We are now debating a man's future on the basis of half-truths, rumors, and unsubstantiated allegations. We are judging John Tower on the basis of whether he might have drunk too much in the 1970s, on the basis of rumors and innuendo about his sex life, and on the basis that his consulting firm might have made too much money. Behind all of these charges lies the equivalent of a Star Chamber proceeding. The closed record of months of fruitless investigation by the FBI where the only thing condemning Senator Tower is the sheer volume of malice, not the weight of evidence.

There is little that I can add to the condemnations of this process. We have created a process of investigation in which everyone gets to cast the first stone. We have also created a process where virtually any strong and controversial man, who has been deeply involved in politics and business, can be condemned or see his life ripped apart in public.

The tragedy that may result, however, goes further than the pointless destruction of a man who gave his country more than two decades of outstanding service as a Senator, who this body promoted to one of its highest and most sensitive positions, who served as a senior arms control negotiator, whose investigation of the Iran-Contra scandal was a model of how an investigation should be carried out, and who served his country both in the military and as a teacher.

The tragedy is that we may be deprived of one of the few men who can act as a strategist and a policy maker at a time that these are precisely the qualities we need in a Secretary of Defense. We do not need a defense bureaucrat or someone who can only manage. We need a man with the experience and strength to bring our forces back into balance with the budget, with the determination and courage to realign the roles and missions of our forces, and who can force a new defense posture that responds to the pressures and uncertainties of reductions in conventional and nuclear forces. We need a man who has the strength within the Administration to speak for the Department of Defense, and the strength to ensure that the Administration's policy is fully implemented by the Department.

John Tower is that man. If you doubt it, let's stop examining rumors and start examining facts. John Tower served in the Navy as an enlisted man, and learned the realities of military service first hand as a chief petty officer in the Pacific Theater. At the time he left the Senate he was the only member of Congress who was willing to stay an enlisted man in the reserves. He was a successful academic and became a Professor of Government Science at Midwestern University.

Against all the odds, he entered the U.S. Senate in 1961. He quickly became a major voice on the Senate Armed Services Committee. He began his service in 1965, with the review of the FY 1966 Defense Authorization Bill, and then helped shape twenty years of defense policy and defense budget. He became the Committee's ranking Republican Member. He became the Chairman of the Senate Armed Services Committee in 1981, and one of the most forceful and competent leaders in the history of the Senate.

John Tower left the Senate in 1984, after 19 years in the Senate Armed Services Committee and more than two decades of constant service to his country. He left the Senate as a man who had exhibited an extraordinary level of personal competence. There may have been many who opposed him who wished that he had somehow had a drinking problem, or any other problem that impaired his capabilities. In fact, however, the only thing any of his colleagues ever feared was his command of the fact, his untiring energy, and his great political and administrative skills.

If you doubt that statement, let me quote you a few words of praise for Senator Tower from Senator Nunn: "He will leave his own legend. John Tower is recognized as one of the most knowledgeable, articulate, and effective leaders for a strong national defense that had ever served in the U.S. Senate . . . John Tower has never lost sight of the fact our men and women in uniform are our most important national security asset . . . During the Vietnam War, John Tower made 9 trips to Southeast Asia to visit the troops and review conditions first hand, more than any other Senator . . . All of us . . . can attest to this skill, his leadership, and his success in guiding a strong defense program . . . Senator Tower's success on national security issues can, in part be attributed to his remarkable understanding of foreign policy . . . not only does he know the issues, he also knows well the foreign officials who influence them. This combination has been a temendous asset to the work of this Committee and the Senate as a whole."

Senator Bentsen provided similar praise. He stated that, "John Tower . . . is powerfully consistent in his support of this country's defense, but he is not a slave to the Pentagon or to anyone else. When he discovered that an Army attack helicopter was going to be way over budget, John Tower refused to support additional funding for the system . . . he is too much of a conservative to give anyone a blank check on the U.S. Treasury, even if that check purports to pay for defense improvements . . . he had been invariably courteous and always helpful in working out the problems and difficulties we encounter here . . . He has been a great source of strength and purpose."

Senator Bingaman has praised him as "an excellent chairman to initiate a freshman . . . John Tower has exhibited those qualities of toughness and fairness, tenacity and conciliation, determination and resolve that have made my hours at the committee table lessons in management."

Senator Byrd has stated that, "The Senate will miss his talents and tenacity . . . I may not have agreed always with John's point of view on a given subject, but I could never accuse him of failing to make it crystal clear how and why he took a given position."

Senator Byrd has also praised John Tower for his work on the Tower Review Board. He stated that, "The President is to be commended for establishing this panel and giving it its head . . . The Tower report is a major historical contribution to the process of our democracy—what does and does not work, what will and will not produce sound policy. It is a watershed study of the National Security Council and the foreign policy making system . . ."

Senator DeConcini noted that, "He has maintained a loyal, hard-working, responsible demeanor throughout his terms . . . Senator Tower's knowledge and understanding of military preparedness is unsurpassed . . . John Tower is an American patriot."

Senator Dodd has praised him for, "an encyclopedic knowledge of defense issues, a broad and admirable scholarship . . . It would be hard to find in the Senate a fairer subcommittee chairman. The national interest and bipartisanship were consistently his personal hallmark."

Senator Exon has said of him that, "His knowledge of defense issues is impressive and has been instrumental to the continuing influence and effectiveness of the Armed Services Committee. Senator Tower's ability to comprehend and relate so many complex issues is a rare and admirable skill . . . I will miss his leadership, encouragement, and insight . . ."

Senator Pell has noted John Tower's concern with ensuring that our defense spending is tailored to our overall economic needs, "Chairman Tower has been one of the foremost voices in the effort to improve our national security posture . . . extraordinary deficits and historically high interest rates have made economic recovery slow in coming. Chairman Tower, as a member of the Senate Budget Committee, has been one of the staunchest supporters of slowing the rate of Federal growth . . ."

Senator Levin has described John Tower's leadership qualities as follows, "I have been in many conferences, and I know of none that moved so strongly and so quickly to resolve many, many difficult issues. I commend our chairman for the masterful way in which he chaired the committee."

Senator Gore has said of John Tower as an arms control negotiator that, "I have had the opportunity as a member of the arms control observer group to witness your work in Geneva up close, and I want to say for the record that I found your work as our START negotiator to be exemplary in every respect. I was most impressed with your thorough knowledge of not only the details, but the theories and larger issues that lurk behind the details . . . I was very grateful to have someone with your depth of knowledge in Geneva . . ."

Senator Shelby initially welcomed John Tower's nomination for the post of Secretary of Defense by stating that, "you know the issues, you know the weapons systems, you know all about national security because you have been part of it. You have been one of the leading members of the Senate to rebuild America's defenses. You know what we need as far as national security. I believe that."

The majority report implies that its recommendations are not the result of partisanship. It also, however, makes its primary subject of concern the possibility that Senator Tower may have a problem with alcohol and responsibility. We have heard separate com-

ment that the worst period in this problem may have been in the 1970's.

Let me ask, in all frankness, how come many of my most distinguished colleagues on the other side of this House could work with a man for more than a decade, work with him day after day, praise him for all the qualities we need in a Secretary of Defense, and then vote against him for a problem they could never detect when he had far more responsibility than the command of any ship or SAC base.

Senator Kennedy has already said of many of the charges against Senator Tower that, "we deplore the unseemly treatment he has received. It was unfair, but he endured it with characteristic determination, and he deserves the credit for prevailing . . ."

The majority report is an example of such unseemly treatment. It is long on generalities and remarkably free of specifics. It is an extension of what a recent Washington Post editorial has criticized as talking in "extremely elliptical, suggestive ways."

A man with a proven record cannot be condemned for charges based on "perception" and "appearance", but the majority report is a tacit admission of the fact that there is no evidence of any kind that any half-way respectable lawyer would treat as proof of the validity of any other kind of charges.

I hope and trust that John Tower will prevail. I hope that when my colleagues in the Senate read the majority and minority reports, and the record of the investigation, they will forget rumored weaknesses and support proven strengths. I hope they will forget the scent of partisan blood, and avoid turning today's vote into a political feeding frenzy. In a quieter and more distinguished time, they judged John Tower on the basis of years of close contact and personal knowledge. They judged him for what he was and is, not what he has been accused of.

I also hope that they will remember that in our military system of command, to which the majority report refers somewhat carelessly, it is the commander in chief that makes decisions as to whom to give key assignments. Each service phrases the criteria slightly differently, but the Air Force states the role of the commander in selecting his personnel as follows:

"The best indication of reliability is past performance. The commander must review the individual's job or duty history . . . When the historical data has been evaluated and the certifying official has personally interviewed the individual, a judgment may be made about the reliability of the individual . . . There is no objective screening program which is superior to the daily assessment of an individual's performance by his or her peers and immediate supervisor . . ."

When these criteria were used to judge John Tower, no one would ever have questioned his capability and ability to serve in the most sensitive positions. In a quieter and more distinguished time, the members of this body judged John Tower on the basis of years of close contact and personal knowledge. They judged him for what he was and is, not what he has been accused of.

This issue today is ultimately whether we judge a man by his actions or his enemies, by proven success or unproven accusations, and by fair and balanced standards or the hidden pressures of

partisanism. I believe that John Tower is eminently qualified to be Secretary of Defense. More than that, I believe we have no substitute that is as good, and that if he is not confirmed, it is the country and not just John Tower that will suffer.

JOHN MCCAIN.

ADDITIONAL VIEWS OF SENATOR MALCOLM WALLOP

This is not the Senate's finest hour. The Armed Services Committee should be ashamed for indulging prurient interests while neglecting our country's many, serious military problems. The American people elect and pay their Senators to make choices about the substance of policy, and to take responsibility. Instead the Armed Services Committee has hidden its struggles over military policy behind a pseudo-debate on morality.

If this country did not have serious military problems perhaps this behavior would be less reprehensible than it is. But we do have such problems. A decade ago the Soviet Union put into the field enough counterforce missiles to threaten a substantially disarming strike against our armed forces. So long have we been dithering over what to do about this fixed threat that now we see the Soviets deploying mobile missiles for their reserve forces. I wish the partisan leadership of the Armed Service Committee would tell us why they chose to focus on John Tower while continuing to dither on this. Perhaps the leadership is satisfied with the plans we have for using the roughly 2,500 warheads that would be left to us after a Soviet disarming strike. If so I wish they would tell me, because I don't know of any such plan that would do the American people any good.

Perhaps the partisan leadership of the Armed Services Committee is so satisfied with the safety of our troops in Europe that they feel justified in taking two months to dangle John Tower in the wind. But how can they be satisfied when estimates of how long it would take for Soviet troops to reach the English Channel range from one to three weeks? And what would we do then? The leadership of the Armed Services Committee must have good answers since they have chosen to spend their time this way. But I wish they would tell us their plan for saving American troops in Europe.

They are also obviously satisfied with the way the Pentagon does business. Never mind that twenty five years ago it used to take from 28 months to four years to take big missiles from ideas to operational status, and now it takes fifteen years. Never mind that the Soviets do it in five years, and they can react faster than we. Never mind that thanks to the procedures worked out over the years in cooperation with the Armed Services Committee the Pentagon research, development, and acquisition process is so inefficient that it is disarming America. But evidently the leadership is satisfied with the half-billion-dollar-per-copy bomber that their process has produced. Never mind that while Soviet factories turn out antimissile equipment there are no plans at all for protecting the American people in case of war. The leadership of the Armed Services Committee wants to talk about sex, booze and money.

Far be it from me to say that personal behavior counts for nothing in public office. In fact, it counts for nearly everything. But

anyone who knows the Senate even a little bit knows how much misbehavior Senators tolerate when they want to. And such sit in judgment on John Tower.

Where is the Senate's moral compass? Why has it been turned on John Tower? Suppose for a moment that John Tower were every bit as bad as the innuendo suggests. Note well that a large majority of the Armed Services Committee served with John Tower. The Congressional Record is full of their praises for him. Indeed upon his retirement Senator Sam Nunn praised him in terms that no one who is sincere about moral matters would use about someone he thought was morally suspect. Either Senator Nunn was not serious then, or he is not serious now. I beleive he is serious but not about personal uprightness. If he were really worried about drinking on the job, why does he not simply accept John Tower's promise that he will not. No to accept that at face value is to deny that he can credibly promise to "defend the Constitution of the United States." But there is zero basis for that doubt. So there must be something else. It is strictly business: who gets over national defense. This is not a morality play. It is play clothed in see-through veils.

Far be it from me to suggest that it is illegitimate for politicians to struggle for power. Quite the contrary is true. But, in a democracy, politicians are supposed to struggle for power by convincing the voters at election time—not by putting innunedo over substance during the process of Senate confirmation. In a democracy, politicians are supposed to struggle for power by describing as accurately as possible what they propose to do, so that the sovereign people can choose between substantive alternatives. But the struggle for power over defense is taking place very differently from the model.

We just had an election, in which the American people chose the Commander-in-Chief of the Armed Forces, the President. The Constitution does not name the Secretary of Defense or any other military official. They are all mere extensions of the President. The Supreme Court has held that the President may dismiss any or all of them at any time for any reason or for none at all. The reason for that is simple: the President alone is accountable to the sovereign voters.

Now, recall what happened—and what didn't happen—during the recent national election. The polls showed—as they have for some years—that the American people believe that the Republican party is the best qualified to take care of this country's military defenses. Of course there is not unanimity among Republicans on military matters. But by and large Republicans want more defense, and they want it more energetically than do Democrats. Indeed during the 1988 campaign Republican candidates in general and President Bush in particular were eager to talk about defense. But the Democrats in general and candidate Michael Dukakis in particular avoided talking about defense. This is not to say that all Democrats are anti-defense. But those Democrats who have proposals to make about defense are acutely conscious of two things: First, most of today's Democratic party neither likes nor understands military defense. That is why no one who is perceived as pro-defense stands much of a chance to get through Democratic primaries or Democratic conventions. In the House, the Democratic

caucus has even trampled the seniority system to make sure that the Chairman of the Armed Services Committee not favor the MX missile, aid to the Contras, anti-missile defense, and a host of other military measures. Second, Democrats are acutely conscious that their Party's inclinations on military matters are unpalatable to the American people. So officials elected with the Democratic party label realize that talking substantively about defense will get them in trouble either with the majority in their party or with the electorate. Not surprisingly, those Democrats who choose to act with regard to military matters have been very ci mspect. This has worked against Democratic presidential candidates. The voters know that national defense is the irreducible responsibility of the President. Thus the voters judge that any presidential candidate who is not forthright about military matters is not trustworthy.

Candidates for the House and Senate have had it easier. They can always say that the President bears ultimate responsibility, but that they are partners in the process. A candidate for the Senate or House can look good on military matters talking about the process. Of course Congressmen and Senators learn quickly that mastery of the process gives us formidable power over substance. By not acting, by finding pretexts, by raising questions, even just by frowning, those of us who must approve budgets and nominees send powerful signals to the executive branch. And the colonels, and Assistant Secretaries, the Undersecretaries, the Secretaries, and the Presidents know that the price to be paid for getting along with Congress is negotiation—sharing the power to decide about substance.

Now let us be clear. It is perfectly proper for a member of Congress to challenge the President—to withhold his cooperation, or to defeat a Presidential proposal or a nominee—if he tells the voters that the President's policy is wrong, and if he proposes an alternative policy for the voters to consider. If the alternative policies prove popular, the President will heed public opinion. If he does not, the Senator can feel confident in running for President.

But it is quite something else for a member of Congress to demand the privilege of back-seat driving, of second-guessing Presidential policies or nominees without ever laying out for the public what he proposes. Such a member of Congress does not enrich public opinion with alternatives. He uses public opinion to destroy the President's capacity to govern. He gains power for purposes he has not told the public about, and which he may not have fully articulated in his own mind. And since he exercises that power through others, he avoids responsibility for the events he brings about. In this case we see a Democratic party that has been kicked out of power through the front door of substantive policy, trying to grab power through the back door of the process. This is an end-run on the American people. This is evidently a corruption of the role of Congress.

This corruption can exist only so long as Presidents allow it. The President can make specific proposals on military policy and demand that Senators vote them up or down. Then he can hold them responsible. The President can send up each of his nominees together with a set of policy proposals. Then, when the voters come, it will be clear which Senator has voted for and against

what. And then the voters can decide whether the Senator or the President deserves re-election. Failing any of these means to bring responsibility to the Democratic Party's exercise to of the power of the process, the President could appoint Senator Nunn as Secretary of Defense. Then, at least, he would be overtly responsible. We would be entitled to demand that he tell the country what he and the Democratic party propose to do about this country's military problem.

I hereby promise that if Senator Nunn were nominated to be Secretary of Defense I would ask him no questions about his personal life. Rather, I would ask him the questions he should have asked of John Tower.

But since uncontested mastery of the Process has already given the Committee and its Chairman much power over the Defense Department, regardless of who is Secretary, I think the responsible thing to do is to ask those questions anyway. Perhaps during the floor debate on Senator Tower we might be so rash as to discuss the nation's defense needs. Perhaps the Chairman could bring his Committee majority to respond.

Questions the Committee Never Sought Answers To

I. Military budgets and the safety of the American people.

(1) The American people agree to spend a lot of money on the military because they believe that it buys forces that can deter war and that, if war comes, will protect our lives and homes. Eight years ago there was a consensus that the Soviet Union's achievement of the capacity to destroy nearly all our ICBMs, most of our bombers, and that half of our submarines that are in port at any given time had created a "window of vulnerability" that required new money and major changes in the U.S. military. That consensus went from President Carter's P.D. 59 to the Republican platform of 1980. So the money came. But not everyone shared in the consensus. The New York Times editorial page said that, nothing we could do would change what it claims is our perpetual vulnerability. The Pentagon bureaucracy, for its part, took the money. But its cumbersome process spent it on more of the same.

Do you think that the American people are getting what they expect from all the money they spend on the military?

Are you going to formulate and impose on the Pentagon's bureaucracy a military program as a result of which American taxpayers' lives will be protected to the utmost of our technical capacity? Will you submit such a program to the Congress and force us to take publicly responsible votes on it? Or will you follow your predecessors' leads in this matter?

(2) Public opinon polls have shown consistently that a large majority of the American people believe that a substantial part of our military budget already goes for protecting our lives and homes against missiles and bombers. Most would be willing to spend more. As you know, however, our military leaders are comfortable with the fact that we have almost no anti-aircraft units for homeland defense and no anti-missile units at all.

As Secretary of Defense, will you follow the budgetary priorities of the Joint Chiefs of Staff or those of the American people?

II. Competitiveness in technical systems.

(1) I know you are painfully aware that the time and money required to translate technology into systems have grown dramatically in the U.S. Whereas thirty years ago it took twenty-eight months to develop and deploy the Thor IRBM, the MX has taken over fifteen years. The Soviet Union's development times have remained nearly constant over the past thirty years. This means that much American military technology lies around unused. You are aware I assume, that, sometimes the Soviets steal it and use it before we do.

When will you give this committee your plan for making the Pentagon's R&D and procurement process as efficient as that of the Soviet Union? I'm not asking you to get us back to the best U.S. standards—just to Soviet ones. When can we do that?

(2) Bureaucracy, reform, and leadership.

Several books have appeared in recent years that I think explain why the Pentagon has become so bureaucratized that major reforms are needed. I am referring to Mancur Olson's "The Rise and Decline of Nations" (Yale University Press), to Edward Luttwak's "The Pentagon and the Art of War" and to Walter MacDougall's "The Heavens and the Earth" (Pulitzer Prize). These explanations fit the experiences I had with the U.S. intelligence community. Do you agree with them? If not, how do you explain the phenomenon?

The last major reform of the Pentagon took place a generation ago while Robert McNamara was Secretary of Defense. No one has undone what he did. Every Secretary of Defense since then has built on what he did. Do you plan to do the same, or are you dissatisfied enough with the Pentagon to build something else? If so, when will we see your plans?

III. What the Soviets can do to us and what we can do for ourselves.

(1) I wonder if you would tell us what meaning Soviet military power has for us, if any. As you know many people now believe that military force—especially strategic forces—are no longer useful—passe.

Specifically, if you were in charge of the Soviet military machine and your political masters were to order you to destroy the American and allied armed forces, while protecting the Soviet homeland to the best of your ability, how would you use the assets under your command? What could you do to the West if you really tried?

(2) Having outlined what the Soviets could do to disarm us if they really tried, could you now tell us what the forces under the Secretary of Defense of the United States could do to protect themselves against the best that the Soviets could throw at them, while also protecting the American people from the collateral effects of the war? In other words, the American people pay for the armed forces both to deter war and to make sure that if it happens we will minimize damage to ourselves and ultimately win. We would like to know what you think is the best our armed forces can do in this regard.

(3) Given present Soviet and American procurement programs, how will the outcome four years from now differ from the outcome today?

(4) What do you think the outcome should be?

(5) What will you propose as Committee Chairman and Secretary of Defense to alter these unfavorable projected outcomes? If your proposals are finally implemented, what difference will they make?

IV. Soviet antimissile defenses.

(1) During the 1980s the Soviet Defense Council has elevated the P.V.O., the military service in charge of air, missile, and space defense, to the second-ranking position in the Soviet armed forces, right behind the Red Army. The P.V.O. seems to be getting the lion's share of special construction funds and is in the course of expansion. We now see six Hen House radar complexes, nine Pechora class radar complexes, production lines for all elements of dedicated ABM systems, including the very high-tech SH–11, production of the dual-use SA–10 and SA–12 systems, and construction of a great quantity of anti-missile related facilities, the precise use for which we do not understand. In sum, we know that the Soviet anti-missile effort is huge, and that it is not primarily research, but rather primarily production.

I want to ask you what you think all this effort means for the Soviet Union's military posture. What does the production of so many anti-missile weapons mean given the Soviet's already large capacity to destroy American missiles before they are ever launched?

Let me just ask you about one part of this problem. Specifically, what will the Soviet Union's deployment of 1,000 units of the mobile SA–12 defensive system do to our plans for a retaliatory strike? Suppose that the U.S. can count on having 2,500 warheads left after a Soviet first strike. How would we target them given the unpredictable presence of 1,000 SA–12 units around the country? In other words, what does the expected production of 1,000 SA–12 units do to the credibility of our threat to retaliate?

(2) Would you now discuss the military implications of the rest of the Soviet defensive expansion? What do you suppose would be the effect of the Moscow ABM system upon the U.S. weapons heading into the Moscow area in a retaliatory strike if the 100 launchers in that system were—as we believe they are—loaded for multiple, rapid firing? How does this affect the credibility of our deterrent?

(3) What do you suppose would be the effect on a U.S. retaliatory strike of 50 rapidly erected ABM sites consisting of Flat-Twin radars, SH–11 high altitude interceptors, and SH–8 low-altitude interceptors? What do you think the chances are that the Soviet Union may have already produced and stored the equipment for those sites?

(4) What do you suppose will be the effect on the credibility of the U.S. second-strike when the Soviet Union becomes the first nation in the world to test a laser weapon in space? As you know, given the asymmetry between U.S. and Soviet programs, that event is likely. If that event happens during your tenure as Secretary of Defense, how would you rate its importance?

V. The annual reports of your two predecessors have sounded an ominous tone about the evolution of the offensive and defensive strategic balance. They have noted that the Soviet Union's ability to destroy our strategic forces on the ground has continued to increase. They have noted that the Soviet Union's defensive programs are progressively reducing that country's vulnerability to

American retaliation. Your immediate predecessor has said that "left unchallenged," these trends are eroding the credibility of our deterrent. The latest proposals for START make this problem worse rather than better.

Your predecessors have also indicated that there is really only one military way out of this predicament—an American anti-missile defense. But for a variety of reasons they have not proposed actually building one. So they have not challenged these serious trends in a meaningful way.

Will you recommend to the Congress that we build an American anti-missile defense?

If you do not, or you delay, will you recommend programs that would challenge these fearsome trends as decisively as an anti-missile defense would?

Can this country afford to put off these choices?

These are the areas a competent committee would have focused upon. Sex and whiskey may divert the press and the public, but it will not divert the Soviet Union in its pursuit of even greater margins of superiority.

Can we hold NATO together, Mr. Chairman, or do you and the committee majority care more about defamation? This has not been a hearing about the Secretary of Defense and his President's policies. Perhaps during the year we can get to these questions and do what Americans expect of us. To date we have not.

MALCOLM WALLOP.

SUPPLEMENTAL VIEWS OF SENATOR TRENT LOTT ON THE NOMINATION OF JOHN TOWER TO BE SECRETARY OF DEFENSE

There are many reasons why John Tower deserves to be confirmed as Secretary of Defense. The minority views set forth those reasons and I concur with them. But none are more important than the damaging impact that rejection of John Tower at this time would have on the Presidency and our country's national defense.

We have a new president who has been in office for just one month. He is attempting to assemble his Cabinet and has sought the advice and consent of the Senate, as required by the Constitution. While I may be a new member of this committee, I know from my 16 years of experience in Congress that the Senate traditionally gives the President the people he selects to help him run the country.

George Bush knows John Tower well. They are both from the same state and have worked together professionally for many years. And George Bush knows that John Tower has the qualifications needed to be an effective Secretary of Defense.

It did not help the President or the country for this committee to send an unfavorable recommendation to the Senate at a time when the President was in Japan. In fact, it sent precisely the wrong message at the wrong time to the world leaders with whom President Bush was then meeting.

What message does rejection of a man whose name symbolizes a strong defense for America send to the Soviet Union at a time when Mr. Gorbachev is so anxious to coax the U.S. and our NATO allies into hastily arrived at concessions affecting the defense of Europe and the West?

What message does it send to some of our NATO allies who have already succumbed to the siren songs from Moscow?

It seems to me that some have forgotten that "Peace Through Strength" is more than an empty slogan. This has been said before but bears repeating. It was the steadfastness of former President Reagan and the strength of his Presidency that made the INF Treaty possible.

If our new President and our NATO partners are to be successful in negotiating new arms control agreements that are in our national security interests, then it is this Senator's strongly held belief that we should not do anything that would weaken the stature and authority of the Presidency. Yet that is exactly what the majority would have the Senate do by rejecting President Bush's nominee for Secretary of Defense.

There are vital matters pertaining to our national defense that await the new Administration—modernizing our land-based missiles, the future of SDI, how rapidly to proceed with the B–2

Stealth Bomber, and setting overall budget priorities to meet our defense needs within the constraints imposed by a no-growth budget. Momentous decisions must be made, and made without further delay, and they require the best judgement and active participation of the Secretary of Defense. We are not doing our duty if we continue to leave a vacuum at the top of one of the most important Cabinet departments.

If America is to meet the global challenges that confront us today, then the President and the Congress need the judgement and experience of a strong, effective and respected Secretary of Defense. And we need it now. I strongly believe that a compelling case has been made that John Tower possesses those qualifications. The Senate should act favorably on his nomination.

TRENT LOTT.

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